

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 839 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M J PHARMACEUTICALS LTD

Versus

STATE OF GUJARAT

Appearance:

MR AKSHAY H MEHTA for Petitioner

NOTICE SERVED BY DS for Respondent No. 2, 3

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 13/10/98

ORAL JUDGEMENT

1. Rule. Heard Ld.Advocate Mr.A.H.Mehta for petitioner. Ld.APP Ms.B.R.Gajjar waives service of rule on behalf of respondent Nos 1,2&3. With the consent of Ld.advocates appearing for parties matter is taken for final hearing.

2. The petitioner has approached this court with

prayer to claim appropriate relief or direction to respondent Nos 2 & 3 to record the offence and to enquire into and investigate the complaints made by the petitioner against M/s Yamunaji Corporation , a ijaradar retained by Halol Municipality to collect octroi.

3. The petitioner has averred and contended that the petitioner has to transport medicinal preparations and other pharmaceutical drugs pursuant to its business activity in the vicinity of Halol. That according to the petitioner the factory of the petitioner is situated outside the octroi limits of Halol Municipality, and thereby the petitioner is not liable to pay Octroi on goods brought to the factory of the petitioner. The petitioner has alleged that on account of undue harassment by the ijaradar retained by the Halol Municipality to collect the octroi, the petitioner was constrained to file civil proceedings, i.e. C.S.53/91 in the court of Civil Judge (JD) Halol and had obtained interim injunction restraining the ijaradar from collecting any octroi from the petitioner or from obstructing or withholding the goods of the petitioner being transported to his factory. The court had also directed respondent No.2 to provide police assistance for the enforcement of said interim injunction.

4. The petitioner has further averred and alleged that despite the above stated injunction order as the said ijaradar is changed the new ijaradar has continued to harass the petitioner and thereby the petitioner made several applications to respondent Nos 2 & 3 to provide protection. It is the case of the petitioner that as per the incidents stated in the applications, dated 10.8.98, 2.9.98, 3.9.98, 8.9.98 and 9.9.98 the ijaradar had stopped the trucks of the petitioner bringing material too its factory and forcibly removed the articles and goods lying in the truck. That despite the said application the respondent Nos 2 & 3 have failed to register any offence against the said ijaradar and thereby the petitioner has filed the present petition.

5. It may be noted that initially notice was issued to the respondent Nos 2 & 3 and respondent Nos 2 & 3 were directed to provide necessary protection to the vehicle of the petitioner bringing goods to the factory premises of the petitioner. That pending hearing of the present petition the respondent Nos 2 & 3 have provided protection to the petitioner and have also registered offence at the instance of the petitioner against some culprits who have caused harassment to the petitioner

while bringing the material to the factory and have caused damage to the property of the petitioner.

6. Ld.APP Ms.B.R.Gajjar representing the respondents has fairly stated at Bar that the respondents have no cause not to act in accordance with law and thereby the respondents shall inquire and investigate into the genuine complaints of the petitioner.

7. In view of the above stated facts and circumstances of the case, the petitioner is directed to furnish particulars to respondent Nos 2 & 3 in respect to previous complaints made and produced on record vide annexure "B" within a period of two weeks from the date of this order. The respondent No.3 is directed to register and inquire into the complaints of the petitioner as made vide applications stated in this order and the particulars which are to be provided by the petitioner under this order. The respondent No.2 shall take appropriate steps so as to investigate in respect to the complaints made by the petitioner and deal with the same in accordance with law.

8. On the basis of above stated discussion petition is partly allowed. Rule is made absolute accordingly. No costs. DS permitted.

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